



GREG KAMPTNER  
COUNTY ATTORNEY

JOHN C. BLAIR, II  
DEPT. COUNTY ATTORNEY

**COUNTY OF ALBEMARLE**  
Office of County Attorney  
401 McIntire Road, Suite 325  
Charlottesville, Virginia 22902-4596  
PHONE: (434) 972-4067  
FAX: (434) 972-4068

ANDREW H. HERRICK  
RICHARD A. DELORIA  
AMANDA E. B. FARLEY

SENIOR ASSISTANT  
COUNTY ATTORNEYS

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Federal Communications Commission  
445 12 Street, SW  
Washington, D.C. 20554

Re: WT Docket No. 16-421, Comment Sought on Streamlining Deployment of Small Cell Infrastructure by Improving Wireless Facilities Siting Policies; Mobilitie, LLC Petition for Declaratory Ruling; Comments of the County of Albemarle, Virginia

These comments are provided by the County of Albemarle, Virginia regarding the above-referenced matter.

**1. The Declaratory Ruling Should Address Small Cells and DAS Differently than Macrocell Infrastructure**

Small cell and DAS infrastructures raise different issues than macrocell infrastructure and should be subject to their own rules.

**2. Response to Footnote 43 on Page 23 of the Comments of the Competitive Carriers Association**

The County disputes the statement in footnote 43 on page 23 of the Comments that Albemarle County "is known to ignore the Section 6409(a) shot clock." Following is the data gathered since 2014 by the County's Department of Community Development, which reviews all wireless applications:

Albemarle County's zoning regulations that apply to wireless infrastructure use a 3-tiered approach. Tier I facilities are allowed by right and are facilities attached to existing structures and require only a building permit under the Virginia Uniform Statewide Building Code. The County has issued 162 building permits since 2014, 132 of which were approved within 60 days and some in as few as 3 days. Of the 30 permits that took longer than 60 days to be issued, County staff found that the longer issuance time was attributed to issues such as errors in the application, failure by the applicant to identify a contractor, failure by the applicant to request a preliminary zoning inspection, and technical issues with the building plans. We are unaware that any applicant put the County on notice for unreasonable delay.

Tier II facilities are allowed by right and may be up to 10 feet taller than the crown of the tallest tree within 25 feet. The County has received 5 new construction applications for Tier II facilities since 2014. These applications are subject to the 60-day review period unless they require some other permit.

- Application 1 was approved in 31 days.
- Application 2 was reviewed by the County in 51 days; the review requested that the applicant clarify the height of the facility shown on the plans; revisions were never submitted by the applicant.

- Application 3 was approved in 393 days, only 91 days of which were attributed to the time for the County to review and approve the application. The project would disturb steep slopes requiring a special exception, therefore the 150-day review period applied; the County's total review period was 91 days; 302 days were attributed to the time for the applicant to submit the request for the steep slopes special exception.
- Application 4 was approved in 128 days, only 70 of which were attributed to the time for the County to review and approve the application. The additional time was required for the applicant to obtain a grading permit under the County's State-mandated erosion and sediment control regulations.
- Application 5 was reviewed by the County for 52 days, upon which the applicant requested that review be deferred to pursue a new location.

Tier III facilities are allowed by special use permit and they are any type of wireless facility that does not qualify as a Tier I or Tier II facility. The County has received 11 new construction applications for Tier III facilities since 2014. These applications are subject to the 150-day review period.

- Application 1 was reviewed by the County for 61 days. The project would have disturbed steep slopes requiring a special exception, and the applicant never applied for a steep slopes special exception.
- Application 2 was approved in 100 days.
- Applications 3 through 8 pertained to collocations and the applications were voided when the County's regulations were amended to allow those particular collocations to be permitted by right.
- Application 9 was withdrawn by the applicant after County comments were provided to the applicant after 32 days of review. The applicant never submitted revisions to its application.
- Application 10 was approved in 92 days. The applicant's original application was reviewed by the County for 36 days when the proposed project was found to be located in a utility easement. The County approved the project at a new location 92 days after the new location was selected.
- Application 11 was approved in 107 days.

The criticism of the County in Footnote 43 is groundless.

### **3. Response to Statement in Body of Text and in Footnote 64 on Page 30 of the Comments of the Competitive Carriers Association**

The Comments incorrectly assert in the body of the text and in footnote 64 on page 30 of the Comments that the County evades the requirements of Section 6409(a). The County applies Section 6409(a) and the FCC's various decisions and rules related Section 6409(a) as they are written.

The Comments are correct that the County's wireless regulations have antenna size and stand-off regulations. These standards are longstanding concealment elements, not recent creations to allegedly "evade Section 6409(a)." The County has a pending request from a wireless provider to amend the wireless regulations to increase the antenna size dimensions and the maximum stand-off in order to keep up with changing technologies. As for the burden of a wireless provider needing a special exception to exceed either


the current antenna size dimensions or the maximum stand-off, only a single public hearing before the County's Board of Supervisors is required unless staff does not recommend approval, in which case review by the County's Planning Commission is first required.

#### **4. Proactive Steps Being Taken by Albemarle County**

Albemarle County is primarily a rural locality, 95% of its 720 square miles are planned and zoned for agriculture, forestry, and very low density residential uses. From east to west, its terrain rises from the Piedmont, to hills, to the Blue Ridge Mountains. Large areas of the County have low population density and are unserved by broadband services.

The County has been studying the deployment of broadband for at least the past two years, has developed a broadband plan, and has recently obtained a \$118,400 grant from the Commonwealth of Virginia (with CenturyLink as its co-applicant) under the Virginia Telecommunications Initiative to extend broadband service to the County's unserved areas. The County's Board of Supervisors is also in the process of creating a Wireless Service Authority pursuant to the Virginia Wireless Service Authorities Act (Virginia Code § 15.2-5431.1 *et seq.*) to facilitate deployment of broadband in the County.

Very truly yours,

  
Greg Kamptner  
County Attorney  
County of Albemarle